

REMARKS

Reconsideration of the application is respectfully requested in view of the following remarks.

The Office observes that Sher fails to teach the combination of a (ultra high) heat sterilized aqueous suspension with an emulsifier having a HLB below 16 and comprising monoglyceride.

Gonzalez discloses emulsifiers for an oil-in-water filling product. It is not apparent why one of ordinary skill would look to Gonzalez' emulsifiers for an oil in water product for use in an aqueous suspension.

One of ordinary skill seeking to reduce age-gelling in heat treated water-continuous suspensions would not be motivated to do routine experimentation with a list of emulsifiers suitable for water-in-oil emulsions.

The Office states that Meister discloses that it is well known to sterilize milk compositions at 120-145°C. Meister teaches preparation of a concentrated milk base composition. In example 1, the product is concentrated to 33-37% dry matter before addition of disodium hydrogenphosphate solution and sterilization. The Office points to no teaching of sterilizing the present aqueous suspension having 0.5 to 10% protein and 0.1 to 8% of fat.

It is submitted that the Office has not established a *prima facie* case of obviousness, eg of sterilizing the instant aqueous suspension. Even if the Office were considered to

establish prima facie obviousness, the Office points to no reason why the present results are expected.

Therefore, the Office's conclusion of obviousness is based upon hindsight reasoning and is based on knowledge gleaned only from applicant's disclosure.

In view of the foregoing, it is respectfully requested that the application, as amended, be allowed.

Respectfully submitted,



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